
By: **Senators Hogan, Brinkley, Colburn, Currie, DeGrange, Exum,
Forehand, Garagiola, Giannetti, Greenip, Hafer, Haines, Harris,
Hollinger, Hooper, Jacobs, Kittleman, Kramer, Lawlah, McFadden,
Middleton, Mooney, Munson, Schrader, Stoltzfus, and Stone**

Introduced and read first time: January 31, 2003
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 19, 2003

CHAPTER _____

1 AN ACT concerning

2 **Public-Private Transportation Act of 2003**

3 FOR the purpose of ~~authorizing a person to enter into an agreement with a certain~~
4 ~~responsible public entity~~ establishing a Transportation Public-Private
5 Partnership Program in the Maryland Transportation Authority to develop
6 partnership agreements between private entities and the Authority or the
7 Department of Transportation for the acquisition of, construction of, or
8 improvement to a of transportation facility facilities and maintenance and
9 services in connection with new, expanded, or purchased transportation
10 facilities; requiring a transportation facility that is the subject of an agreement
11 under this Act to be consistent with and incorporated into the Consolidated
12 Transportation Program and the Maryland Transportation Plan; stating the
13 public policy objectives of the General Assembly regarding transportation
14 facilities; authorizing a person to request approval to acquire, construct,
15 improve, maintain, or operate a transportation facility; authorizing certain
16 public entities to request proposals for the acquisition or construction of or
17 improvement to a transportation facility; establishing a method for a person to
18 request approval to acquire, construct, improve, maintain, or operate a
19 transportation facility; requiring certain items to be included in an application;
20 establishing the circumstances under which a responsible public entity may
21 authorize the acquisition or construction of or improvement to a transportation
22 facility; authorizing a public entity to enter into certain service agreements;
23 establishing certain requirements related to the provision of certain notice to
24 certain local jurisdictions; authorizing a certain dedication of certain public
25 property; establishing the powers and duties of an operator of a certain

1 ~~transportation facility; authorizing a certain operator of a transportation facility~~
 2 ~~and a certain responsible public entity to enter into a certain comprehensive~~
 3 ~~agreement; requiring a comprehensive agreement to contain certain provisions;~~
 4 ~~authorizing a responsible public entity to take action to obtain certain federal,~~
 5 ~~State, or local assistance; authorizing the Department of Transportation to bring~~
 6 ~~an action for a judgment by default under certain circumstances; authorizing~~
 7 ~~certain remedies on entry of a certain judgment by default; authorizing the~~
 8 ~~exercise of certain powers of condemnation; providing for the standards for~~
 9 ~~cooperation of certain entities when a transportation facility will affect certain~~
 10 ~~public service providers under certain circumstances; providing for the~~
 11 ~~operation of certain police powers in certain transportation facilities; providing~~
 12 ~~for a certain method for a dedication of certain assets after a certain date;~~
 13 ~~providing for the sovereign immunity of certain entities; providing for the~~
 14 ~~application of certain procurement procedures to a comprehensive agreement~~
 15 ~~under certain circumstances; establishing a certain jurisdiction for the~~
 16 ~~Department prohibiting private entities subject to certain partnership~~
 17 ~~agreements from imposing tolls or user fees; requiring partnership agreements~~
 18 ~~to comply with all applicable laws and regulations; requiring the Authority to~~
 19 ~~establish certain procedures for the submittal, evaluation, and approval of~~
 20 ~~solicited and unsolicited proposals; prohibiting the submittal of certain~~
 21 ~~proposals before a certain point during the final project planning phase;~~
 22 ~~requiring that agreements be subject to a certain prevailing wage rate; requiring~~
 23 ~~the Authority to adopt certain regulations; defining a certain terms term; and~~
 24 ~~generally relating to public-private transportation agreements.~~

25 BY adding to
 26 Article - Transportation
 27 Section ~~2-701 through 2-719~~ to be under the new subtitle "Subtitle 7-
 28 Public Private Transportation" 4-205.1
 29 Annotated Code of Maryland
 30 (2001 Replacement Volume and 2002 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 32 MARYLAND, That the Laws of Maryland read as follows:

33 **Article - Transportation**

34 **SUBTITLE 7. PUBLIC PRIVATE TRANSPORTATION.**

35 ~~2-701.~~ 4-205.1.

36 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 37 INDICATED.

38 (B) ~~"AFFECTED LOCAL JURISDICTION" MEANS ANY COUNTY OR MUNICIPAL~~
 39 ~~CORPORATION IN WHICH ALL OR A PORTION OF A QUALIFYING TRANSPORTATION~~
 40 ~~FACILITY IS LOCATED.~~

1 ~~(C) "COMPREHENSIVE AGREEMENT" MEANS THE AGREEMENT BETWEEN THE~~
2 ~~OPERATOR AND THE RESPONSIBLE PUBLIC ENTITY REQUIRED BY § 2-709 OF THIS~~
3 ~~SUBTITLE.~~

4 ~~(D) "MATERIAL DEFAULT" MEANS A DEFAULT BY THE OPERATOR IN THE~~
5 ~~PERFORMANCE OF THE OPERATOR'S DUTIES UNDER § 2-708(F) OF THIS SUBTITLE~~
6 ~~THAT:~~

7 ~~(1) JEOPARDIZES ADEQUATE SERVICE TO THE PUBLIC FROM A~~
8 ~~QUALIFYING TRANSPORTATION FACILITY; AND~~

9 ~~(2) REMAINS UNREMEDIED AFTER THE RESPONSIBLE PUBLIC ENTITY~~
10 ~~HAS PROVIDED NOTICE TO THE OPERATOR AND A REASONABLE CURE PERIOD HAS~~
11 ~~ELAPSED.~~

12 ~~(E) "OPERATOR" MEANS THE PRIVATE ENTITY THAT IS RESPONSIBLE FOR THE~~
13 ~~ACQUISITION, CONSTRUCTION, IMPROVEMENT, MAINTENANCE, OR OPERATION OF A~~
14 ~~QUALIFYING TRANSPORTATION FACILITY.~~

15 ~~(F) (1) "PUBLIC ENTITY" MEANS THE STATE OR ANY AGENCY OF THE STATE,~~
16 ~~OR A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION.~~

17 ~~(2) "PUBLIC ENTITY" DOES NOT INCLUDE A PUBLIC SERVICE COMPANY.~~

18 ~~(G) "QUALIFYING TRANSPORTATION FACILITY" MEANS A TRANSPORTATION~~
19 ~~FACILITY ACQUIRED, CONSTRUCTED, IMPROVED, MAINTAINED, OR OPERATED BY A~~
20 ~~PERSON IN ACCORDANCE WITH THIS SUBTITLE.~~

21 ~~(H) "RESPONSIBLE PUBLIC ENTITY" MEANS THE PUBLIC ENTITY THAT HAS~~
22 ~~JURISDICTION TO ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE A~~
23 ~~TRANSPORTATION FACILITY.~~

24 ~~(I) "REVENUES" MEANS THE USER FEES OR SERVICE PAYMENTS GENERATED~~
25 ~~BY A QUALIFYING TRANSPORTATION FACILITY.~~

26 ~~(J) "SERVICE CONTRACT" MEANS A CONTRACT ENTERED INTO BETWEEN A~~
27 ~~PUBLIC ENTITY AND THE OPERATOR PURSUANT TO § 2-705 OF THIS SUBTITLE.~~

28 ~~(K) "SERVICE PAYMENTS" MEANS PAYMENTS TO THE OPERATOR OF A~~
29 ~~QUALIFYING TRANSPORTATION FACILITY PURSUANT TO A SERVICE CONTRACT.~~

30 ~~(L) SECTION, "TRANSPORTATION FACILITY" HAS THE MEANING STATED IN §~~
31 ~~3-101(L) OF THIS ARTICLE.~~

32 ~~(M) "USER FEES" MEANS THE RATES, FEES, OR OTHER CHARGES IMPOSED BY~~
33 ~~THE OPERATOR OF A QUALIFYING TRANSPORTATION FACILITY FOR THE USE OF ALL~~
34 ~~OR A PORTION OF A QUALIFYING TRANSPORTATION FACILITY PURSUANT TO THE~~
35 ~~COMPREHENSIVE AGREEMENT.~~

1 ~~2-702.~~

2 ~~(A)~~ ~~(B)~~ THE GENERAL ASSEMBLY FINDS THAT:

3 ~~(1)~~ THERE IS A PUBLIC NEED FOR TIMELY ACQUISITION OR
4 CONSTRUCTION OF AND IMPROVEMENTS TO TRANSPORTATION FACILITIES IN THE
5 STATE THAT ARE COMPATIBLE WITH STATE AND LOCAL TRANSPORTATION PLANS;

6 ~~(2)~~ THE PUBLIC NEED MAY NOT BE WHOLLY SATISFIED BY EXISTING
7 WAYS IN WHICH TRANSPORTATION FACILITIES ARE ACQUIRED, CONSTRUCTED, OR
8 IMPROVED; AND

9 ~~(3)~~ AUTHORIZING PERSONS TO ACQUIRE, CONSTRUCT, IMPROVE,
10 MAINTAIN, OR OPERATE ONE OR MORE TRANSPORTATION FACILITIES MAY RESULT
11 IN THE AVAILABILITY OF IMPROVED TRANSPORTATION FACILITIES TO THE PUBLIC
12 IN A MORE TIMELY OR LESS COSTLY FASHION, THEREBY SERVING THE PUBLIC
13 SAFETY AND WELFARE.

14 ~~(B)~~ ~~AN ACTION SERVES THE PUBLIC PURPOSES OF THIS SUBTITLE IF THE~~
15 ~~ACTION FACILITATES THE TIMELY ACQUISITION OR CONSTRUCTION OF, OR~~
16 ~~IMPROVEMENT TO, A QUALIFYING TRANSPORTATION FACILITY OR THE CONTINUED~~
17 ~~OPERATION OF A QUALIFYING TRANSPORTATION FACILITY.~~

18 ~~(C)~~ ~~THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO PROMOTE ITS~~
19 ~~UNDERLYING PURPOSES AND POLICIES.~~

20 ~~2-703.~~

21 ~~(A)~~ ~~A PERSON SEEKING AUTHORIZATION UNDER THIS SUBTITLE TO ACQUIRE,~~
22 ~~CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE A TRANSPORTATION FACILITY~~
23 ~~SHALL FIRST OBTAIN APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY UNDER §~~
24 ~~2-704 OF THIS SUBTITLE.~~

25 ~~(B)~~ ~~THE APPROVAL PROCESS MAY BE INITIATED BY:~~

26 ~~(1)~~ ~~A PERSON REQUESTING APPROVAL UNDER § 2-704(A) OF THIS~~
27 ~~SUBTITLE; OR~~

28 ~~(2)~~ ~~THE RESPONSIBLE PUBLIC ENTITY REQUESTING PROPOSALS UNDER~~
29 ~~§ 2-704(B) OF THIS SUBTITLE.~~

30 ~~2-704.~~

31 ~~(A)~~ ~~(1)~~ ~~A PERSON MAY REQUEST APPROVAL FROM THE RESPONSIBLE~~
32 ~~PUBLIC ENTITY TO BUILD A QUALIFIED TRANSPORTATION FACILITY.~~

33 ~~(2)~~ ~~THE QUALIFIED TRANSPORTATION FACILITY MUST BE PART OF A~~
34 ~~PROPOSED PROJECT IN THE CONSOLIDATED TRANSPORTATION PROGRAM AT THE~~
35 ~~TIME THE PERSON SUBMITS THE REQUEST FOR APPROVAL.~~

1 (3) (4) A REQUEST MADE UNDER THIS SUBSECTION SHALL BE
2 ACCOMPANIED BY THE FOLLOWING MATERIAL AND INFORMATION:

3 1. A TOPOGRAPHIC MAP (1:2,000 OR OTHER APPROPRIATE
4 SCALE) INDICATING THE LOCATION OF THE TRANSPORTATION FACILITY;

5 2. A DESCRIPTION OF THE TRANSPORTATION FACILITY
6 INCLUDING:

7 A. A COPY OF THE PROJECT INFORMATION FORM
8 REFERENCING THE TRANSPORTATION FACILITY AND PROPOSED PROJECT FROM THE
9 CONSOLIDATED TRANSPORTATION PROGRAM; AND

10 B. THE CONCEPTUAL DESIGN OF THE TRANSPORTATION
11 FACILITY AND ALL PROPOSED INTERCONNECTIONS WITH OTHER TRANSPORTATION
12 FACILITIES;

13 3. THE PROJECTED TOTAL LIFE CYCLE COST OF THE
14 TRANSPORTATION FACILITY AND THE PROPOSED DATE FOR ACQUISITION OF THE
15 TRANSPORTATION FACILITY OR THE BEGINNING OF CONSTRUCTION OF, OR
16 IMPROVEMENTS TO, THE TRANSPORTATION FACILITY;

17 4. A STATEMENT SETTING FORTH THE METHOD BY WHICH
18 THE OPERATOR PROPOSES TO SECURE ALL PROPERTY INTERESTS REQUIRED FOR
19 THE TRANSPORTATION FACILITY INCLUDING:

20 A. THE NAMES AND ADDRESSES, IF KNOWN, OF THE
21 CURRENT OWNERS OF THE PROPERTY NEEDED FOR THE TRANSPORTATION
22 FACILITY;

23 B. THE NATURE OF THE PROPERTY INTERESTS TO BE
24 ACQUIRED; AND

25 C. ANY PROPERTY THAT THE RESPONSIBLE PUBLIC ENTITY
26 IS EXPECTED TO BE REQUESTED TO CONDEMN;

27 5. INFORMATION RELATING TO THE CURRENT
28 TRANSPORTATION PLANS OF EACH AFFECTED LOCAL JURISDICTION;

29 6. A LIST OF ALL PERMITS AND APPROVALS REQUIRED FOR
30 ACQUISITION OR CONSTRUCTION OF OR IMPROVEMENTS TO THE TRANSPORTATION
31 FACILITY FROM LOCAL, STATE, OR FEDERAL AGENCIES AND A PROJECTED
32 SCHEDULE FOR OBTAINING SUCH PERMITS AND APPROVALS;

33 7. A LIST OF PUBLIC UTILITY FACILITIES THAT WILL BE
34 CROSSED BY THE TRANSPORTATION FACILITY AND A STATEMENT OF THE PLANS OF
35 THE OPERATOR TO ACCOMMODATE SUCH CROSSINGS;

36 8. A STATEMENT SETTING FORTH THE OPERATOR'S
37 GENERAL PLANS FOR FINANCING AND OPERATING THE TRANSPORTATION FACILITY;

~~1 OPERATION OF SIMILAR FACILITIES OR THE ADVICE OF OUTSIDE ADVISORS OR
2 CONSULTANTS HAVING RELEVANT EXPERIENCE.~~

~~3 (D) THE RESPONSIBLE PUBLIC ENTITY MAY CHARGE A REASONABLE FEE TO
4 COVER THE COSTS OF PROCESSING, REVIEWING, AND EVALUATING A REQUEST
5 INCLUDING REASONABLE ATTORNEY'S FEES AND FEES FOR FINANCIAL AND OTHER
6 NECESSARY ADVISORS OR CONSULTANTS.~~

~~7 (E) THE APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY SHALL BE SUBJECT
8 TO THE OPERATOR ENTERING INTO A COMPREHENSIVE AGREEMENT WITH THE
9 RESPONSIBLE PUBLIC ENTITY.~~

~~10 (F) (1) IN CONNECTION WITH ITS APPROVAL OF THE OPERATION OF THE
11 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY, THE
12 RESPONSIBLE PUBLIC ENTITY SHALL ESTABLISH A DATE FOR THE ACQUISITION OF
13 OR THE BEGINNING OF CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING
14 TRANSPORTATION FACILITY.~~

~~15 (2) THE RESPONSIBLE PUBLIC ENTITY MAY EXTEND THE DATE
16 ESTABLISHED UNDER THIS SUBSECTION.~~

~~17 2-705.~~

~~18 A PUBLIC ENTITY MAY CONTRACT WITH AN OPERATOR FOR TRANSPORTATION
19 SERVICES TO BE PROVIDED BY A QUALIFYING TRANSPORTATION FACILITY IN
20 EXCHANGE FOR THE SERVICE PAYMENTS AND OTHER CONSIDERATION THAT THE
21 PUBLIC ENTITY DEEMS APPROPRIATE.~~

~~22 2-706.~~

~~23 (A) A PERSON REQUESTING APPROVAL FROM, OR SUBMITTING A PROPOSAL
24 TO, A RESPONSIBLE PUBLIC ENTITY UNDER § 2-704 OF THIS SUBTITLE SHALL NOTIFY
25 EACH AFFECTED LOCAL JURISDICTION BY FURNISHING A COPY OF THE PERSON'S
26 REQUEST OR PROPOSAL TO EACH AFFECTED LOCAL JURISDICTION.~~

~~27 (B) AN AFFECTED LOCAL JURISDICTION THAT IS NOT A RESPONSIBLE PUBLIC
28 ENTITY FOR THE RESPECTIVE QUALIFYING TRANSPORTATION FACILITY SHALL,
29 WITHIN 60 DAYS AFTER RECEIVING THE NOTICE UNDER THIS SUBSECTION, SUBMIT
30 ANY COMMENTS IT MAY HAVE, IN WRITING, ON THE PROPOSED QUALIFYING
31 TRANSPORTATION FACILITY TO THE RESPONSIBLE PUBLIC ENTITY AND INDICATE
32 WHETHER THE FACILITY IS COMPATIBLE WITH THE LOCAL COMPREHENSIVE PLAN.~~

~~33 2-707.~~

~~34 (A) A PUBLIC ENTITY MAY DEDICATE ANY PROPERTY INTEREST THAT IT HAS
35 FOR PUBLIC USE AS A QUALIFIED TRANSPORTATION FACILITY IF THE PUBLIC
36 ENTITY FINDS THAT THE DEDICATION OF THE PROPERTY INTEREST WILL SERVE THE
37 PUBLIC PURPOSE OF THIS SUBTITLE.~~

1 (B) IN CONNECTION WITH DEDICATION OF A PROPERTY INTEREST UNDER
2 THIS SECTION AND SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, A PUBLIC
3 ENTITY MAY CONVEY ANY PROPERTY INTEREST THAT IT HAS TO THE OPERATOR FOR
4 THE CONSIDERATION THE PUBLIC ENTITY MAY DETERMINE.

5 (C) THE CONSIDERATION PROVIDED FOR IN SUBSECTION (B) OF THIS SECTION
6 MAY INCLUDE THE AGREEMENT OF THE OPERATOR TO OPERATE THE QUALIFYING
7 TRANSPORTATION FACILITY.

8 ~~2-708.~~

9 (A) (1) THE OPERATOR MAY ACQUIRE, CONSTRUCT, IMPROVE, OR OPERATE
10 A QUALIFYING TRANSPORTATION FACILITY.

11 (2) THE OPERATOR MAY OWN, LEASE, OR ACQUIRE ANY RIGHT TO USE
12 OR OPERATE A QUALIFYING TRANSPORTATION FACILITY.

13 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
14 OPERATOR MAY IMPOSE USER FEES OR ENTER INTO SERVICE CONTRACTS IN
15 CONNECTION WITH THE USE OF THE QUALIFYING TRANSPORTATION FACILITY.

16 (2) THE OPERATOR MAY NOT IMPOSE TOLLS OR FEES ON ANY EXISTING
17 INTERSTATE HIGHWAY OR ON ANY FREE ROAD, BRIDGE, TUNNEL, OR OVERPASS
18 UNLESS THE ROAD, BRIDGE, TUNNEL, OR OVERPASS IS RECONSTRUCTED TO
19 PROVIDE FOR INCREASED CAPACITY.

20 (C) (1) THE OPERATOR MAY FINANCE THE QUALIFYING TRANSPORTATION
21 FACILITY IN AN AMOUNT AND ON TERMS AND CONDITIONS AS MAY BE DETERMINED
22 BY THE OPERATOR.

23 (2) THE OPERATOR MAY ISSUE DEBT, EQUITY, OR OTHER SECURITIES OR
24 OBLIGATIONS, ENTER INTO SALE AND LEASEBACK TRANSACTIONS, AND SECURE ANY
25 FINANCING WITH A PLEDGE OF, SECURITY INTEREST IN, OR LIEN ON, ANY OR ALL OF
26 ITS PROPERTY, INCLUDING ALL OF ITS PROPERTY INTERESTS IN THE QUALIFYING
27 TRANSPORTATION FACILITY.

28 (D) SUBJECT TO APPLICABLE PERMIT REQUIREMENTS, THE OPERATOR MAY
29 CROSS ANY CANAL OR NAVIGABLE WATERCOURSE AS LONG AS THE CROSSING DOES
30 NOT UNREASONABLY INTERFERE WITH THE NAVIGATION AND USE OF THE
31 WATERWAY.

32 (E) IN OPERATING THE QUALIFYING TRANSPORTATION FACILITY, THE
33 OPERATOR MAY:

34 (1) MAKE CLASSIFICATIONS ACCORDING TO REASONABLE CATEGORIES
35 FOR ASSESSMENT OF USER FEES; AND

36 (2) WITH THE CONSENT OF THE RESPONSIBLE PUBLIC ENTITY, MAKE
37 AND ENFORCE REASONABLE RULES TO THE SAME EXTENT THAT THE RESPONSIBLE

1 PUBLIC ENTITY MAY MAKE AND ENFORCE RULES WITH RESPECT TO A SIMILAR
2 TRANSPORTATION FACILITY.

3 (F) THE OPERATOR SHALL:

4 (1) ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE THE
5 QUALIFYING TRANSPORTATION FACILITY IN A MANNER THAT:

6 (I) MEETS THE ENGINEERING STANDARDS OF THE RESPONSIBLE
7 PUBLIC ENTITY FOR TRANSPORTATION FACILITIES OPERATED AND MAINTAINED BY
8 THE RESPONSIBLE PUBLIC ENTITY; AND

9 (II) IS IN ACCORDANCE WITH THE PROVISIONS OF THE
10 COMPREHENSIVE AGREEMENT;

11 (2) KEEP THE QUALIFYING TRANSPORTATION FACILITY OPEN FOR USE
12 BY THE MEMBERS OF THE PUBLIC AT ALL TIMES AFTER ITS INITIAL OPENING UPON
13 PAYMENT OF THE APPLICABLE USER FEES OR SERVICE PAYMENTS, EXCEPT:

14 (I) FOR TEMPORARY CLOSURES BECAUSE OF EMERGENCIES;

15 (II) WITH THE CONSENT OF THE RESPONSIBLE PUBLIC ENTITY, FOR
16 PROTECTION OF PUBLIC SAFETY; OR

17 (III) DURING REASONABLE PERIODS OF TIME, FOR CONSTRUCTION
18 OR MAINTENANCE PROCEDURES;

19 (3) MAINTAIN, OR PROVIDE BY CONTRACT FOR THE MAINTENANCE OF,
20 THE QUALIFYING TRANSPORTATION FACILITY;

21 (4) PAY WORKERS THE ESTIMATED PREVAILING WAGE FOR WORK
22 PERFORMED IN CONSTRUCTING, MAINTAINING, OR OPERATING THE QUALIFYING
23 TRANSPORTATION FACILITY;

24 (5) COOPERATE WITH THE RESPONSIBLE PUBLIC ENTITY IN
25 ESTABLISHING ANY INTERCONNECTION WITH THE QUALIFYING TRANSPORTATION
26 FACILITY REQUESTED BY THE RESPONSIBLE PUBLIC ENTITY; AND

27 (6) COMPLY WITH THE PROVISIONS OF THE COMPREHENSIVE
28 AGREEMENT AND ANY SERVICE CONTRACT.

29 2-709.

30 (A) PRIOR TO ACQUIRING, CONSTRUCTING, IMPROVING, MAINTAINING, OR
31 OPERATING A QUALIFYING TRANSPORTATION FACILITY, THE OPERATOR SHALL
32 ENTER INTO A COMPREHENSIVE AGREEMENT WITH THE RESPONSIBLE PUBLIC
33 ENTITY.

34 (B) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR:

1 (1) ~~DELIVERY OF PERFORMANCE AND PAYMENT BONDS IN~~
2 ~~CONNECTION WITH THE CONSTRUCTION OF OR IMPROVEMENTS TO THE~~
3 ~~QUALIFYING TRANSPORTATION FACILITY, IN THE FORMS TO THE RESPONSIBLE~~
4 ~~PUBLIC ENTITY;~~

5 (2) ~~REVIEW OF PLANS AND SPECIFICATIONS FOR THE QUALIFYING~~
6 ~~TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY AND APPROVAL~~
7 ~~BY THE RESPONSIBLE PUBLIC ENTITY IF THE PLANS AND SPECIFICATIONS~~
8 ~~CONFORM TO STANDARD CONDITIONS OF THE RESPONSIBLE PUBLIC ENTITY;~~

9 (3) ~~INSPECTION OF, CONSTRUCTION OF, OR IMPROVEMENTS TO THE~~
10 ~~QUALIFYING TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY TO~~
11 ~~ENSURE CONFORMANCE WITH ENGINEERING STANDARDS ACCEPTABLE TO THE~~
12 ~~RESPONSIBLE PUBLIC ENTITY;~~

13 (4) ~~MAINTENANCE OF A POLICY OF PUBLIC LIABILITY INSURANCE OR~~
14 ~~SELF INSURANCE, IN FORM AND AMOUNT SATISFACTORY TO THE RESPONSIBLE~~
15 ~~PUBLIC ENTITY AND REASONABLY SUFFICIENT TO INSURE COVERAGE OF TORT~~
16 ~~LIABILITY TO THE PUBLIC AND EMPLOYEES AND TO ENABLE THE CONTINUED~~
17 ~~OPERATION OF THE QUALIFYING TRANSPORTATION FACILITY;~~

18 (5) ~~MONITORING OF THE MAINTENANCE PRACTICES OF THE OPERATOR~~
19 ~~BY THE RESPONSIBLE PUBLIC ENTITY AND THE TAKING OF ANY ACTIONS THE~~
20 ~~RESPONSIBLE PUBLIC ENTITY FINDS APPROPRIATE TO ENSURE THAT THE~~
21 ~~QUALIFYING TRANSPORTATION FACILITY IS PROPERLY MAINTAINED;~~

22 (6) ~~REIMBURSEMENT TO BE PAID TO THE RESPONSIBLE PUBLIC ENTITY~~
23 ~~FOR SERVICES PROVIDED BY THE RESPONSIBLE PUBLIC ENTITY;~~

24 (7) ~~FILING OF APPROPRIATE FINANCIAL STATEMENTS ON A PERIODIC~~
25 ~~BASIS;~~

26 (8) ~~A REASONABLE MAXIMUM RATE OF RETURN ON INVESTMENT FOR~~
27 ~~THE OPERATOR; AND~~

28 (9) ~~THE DATE OF TERMINATION OF THE OPERATOR'S AUTHORITY AND~~
29 ~~DUTIES UNDER THIS SUBTITLE AND DEDICATION TO THE APPROPRIATE PUBLIC~~
30 ~~ENTITY.~~

31 (C) (1) ~~THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR USER FEES~~
32 ~~THAT MAY BE ESTABLISHED DURING THE PERIOD OF THE OPERATOR'S AUTHORITY~~
33 ~~BY AGREEMENT OF THE PARTIES.~~

34 (2) ~~USER FEES SHALL BE SET AT A LEVEL THAT, TAKING INTO ACCOUNT~~
35 ~~ANY SERVICE PAYMENTS, ALLOWS THE OPERATOR THE RATE OF RETURN ON~~
36 ~~INVESTMENT SPECIFIED IN THE COMPREHENSIVE AGREEMENT.~~

37 (3) ~~A COPY OF ANY SERVICE CONTRACT ENTERED INTO SHALL BE FILED~~
38 ~~WITH THE RESPONSIBLE PUBLIC ENTITY.~~

1 (4) A SCHEDULE OF THE CURRENT USER FEES SHALL BE MADE
2 AVAILABLE BY THE OPERATOR TO ANY MEMBER OF THE PUBLIC ON REQUEST.

3 (5) IN NEGOTIATING USER FEES UNDER THIS SUBSECTION, THE
4 PARTIES SHALL ESTABLISH FEES THAT ARE THE SAME FOR PERSONS USING THE
5 FACILITY UNDER LIKE CONDITIONS AND THAT WILL NOT MATERIALLY DISCOURAGE
6 USE OF THE QUALIFYING TRANSPORTATION FACILITY.

7 (6) THE EXECUTION OF THE COMPREHENSIVE AGREEMENT OR ANY
8 AMENDMENT TO THE COMPREHENSIVE AGREEMENT SHALL CONSTITUTE
9 CONCLUSIVE EVIDENCE THAT THE USER FEES PROVIDED FOR IN THE AGREEMENT
10 COMPLY WITH THIS SUBTITLE.

11 (7) USER FEES ESTABLISHED IN THE COMPREHENSIVE AGREEMENT AS
12 A SOURCE OF REVENUES MAY BE IN ADDITION TO, OR IN LIEU OF, SERVICE
13 PAYMENTS.

14 (D) IN THE COMPREHENSIVE AGREEMENT, THE RESPONSIBLE PUBLIC ENTITY
15 MAY AGREE TO MAKE GRANTS OR LOANS TO THE OPERATOR FROM TIME TO TIME
16 FROM AMOUNTS RECEIVED FROM THE FEDERAL GOVERNMENT OR ANY AGENCY OR
17 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT.

18 (E) (1) THE COMPREHENSIVE AGREEMENT SHALL INCORPORATE THE
19 DUTIES OF THE OPERATOR UNDER THIS SUBTITLE AND MAY CONTAIN SUCH OTHER
20 TERMS AND CONDITIONS THAT THE RESPONSIBLE PUBLIC ENTITY DETERMINES
21 SERVE THE PUBLIC PURPOSE OF THIS SUBTITLE.

22 (2) THE COMPREHENSIVE AGREEMENT MAY CONTAIN PROVISIONS
23 UNDER WHICH THE RESPONSIBLE PUBLIC ENTITY AGREES TO PROVIDE NOTICE OF
24 DEFAULT AND CURE RIGHTS FOR THE BENEFIT OF THE OPERATOR AND THE
25 PERSONS SPECIFIED IN THE COMPREHENSIVE AGREEMENT AS PROVIDING
26 FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY.

27 (3) THE COMPREHENSIVE AGREEMENT MAY CONTAIN ANY OTHER
28 LAWFUL TERMS AND CONDITIONS TO WHICH THE OPERATOR AND THE RESPONSIBLE
29 PUBLIC ENTITY MUTUALLY AGREE, INCLUDING PROVISIONS REGARDING
30 UNAVOIDABLE DELAYS OR PROVISIONS PROVIDING FOR A LOAN OF PUBLIC FUNDS
31 TO THE OPERATOR TO ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE
32 ONE OR MORE QUALIFYING TRANSPORTATION FACILITIES.

33 (F) (1) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR THE
34 DISTRIBUTION OF ANY EARNINGS IN EXCESS OF THE MAXIMUM RATE OF RETURN AS
35 NEGOTIATED IN THE COMPREHENSIVE AGREEMENT.

36 (2) EXCESS EARNINGS MAY BE DISTRIBUTED TO:

37 (I) THE TRANSPORTATION TRUST FUND;

38 (II) THE RESPONSIBLE PUBLIC ENTITY;

1 (III) ~~THE OPERATOR FOR DEBT REDUCTION; OR~~

2 (IV) ~~AFFECTED LOCAL JURISDICTIONS.~~

3 (G) ~~CHANGES IN THE TERMS OF THE COMPREHENSIVE AGREEMENT, AS MAY~~
4 ~~BE AGREED UPON BY THE PARTIES FROM TIME TO TIME, SHALL BE ADDED TO THE~~
5 ~~COMPREHENSIVE AGREEMENT BY WRITTEN AMENDMENT.~~

6 ~~2-710.~~

7 (A) (1) ~~THE RESPONSIBLE PUBLIC ENTITY MAY TAKE ANY ACTION TO~~
8 ~~OBTAIN FEDERAL, STATE, OR LOCAL ASSISTANCE FOR A QUALIFYING~~
9 ~~TRANSPORTATION FACILITY THAT SERVES THE PUBLIC PURPOSE OF THIS SUBTITLE.~~

10 (2) ~~THE RESPONSIBLE PUBLIC ENTITY MAY ENTER INTO ANY~~
11 ~~CONTRACTS REQUIRED TO RECEIVE FEDERAL ASSISTANCE.~~

12 (B) ~~IF THE RESPONSIBLE PUBLIC ENTITY IS A STATE AGENCY, ANY FUNDS~~
13 ~~RECEIVED FROM THE STATE OR FEDERAL GOVERNMENT OR ANY AGENCY OF THE~~
14 ~~STATE OR FEDERAL GOVERNMENT SHALL BE SUBJECT TO APPROPRIATION BY THE~~
15 ~~GENERAL ASSEMBLY.~~

16 (C) ~~THE RESPONSIBLE PUBLIC ENTITY MAY DETERMINE THAT IT SERVES THE~~
17 ~~PUBLIC PURPOSE OF THIS SUBTITLE FOR ALL OR A PORTION OF THE COSTS OF A~~
18 ~~QUALIFYING TRANSPORTATION FACILITY TO BE PAID, DIRECTLY OR INDIRECTLY,~~
19 ~~FROM THE PROCEEDS OF A GRANT OR LOAN MADE BY THE LOCAL, STATE, OR~~
20 ~~FEDERAL GOVERNMENT OR ANY AGENCY OF THE LOCAL, STATE, OR FEDERAL~~
21 ~~GOVERNMENT.~~

22 ~~2-711.~~

23 (A) (1) ~~AFTER PROVIDING NOTICE TO THE OPERATOR AND TO THE SECURED~~
24 ~~PARTIES THAT APPEAR IN THE OPERATOR'S RECORDS, THE DEPARTMENT MAY BRING~~
25 ~~AN ACTION FOR A JUDGMENT BY DEFAULT IN A COURT OF COMPETENT~~
26 ~~JURISDICTION IF A MATERIAL DEFAULT HAS OCCURRED.~~

27 (2) ~~EXCEPT UPON AGREEMENT OF THE OPERATOR AND ANY OTHER~~
28 ~~PARTIES IDENTIFIED IN THE COMPREHENSIVE AGREEMENT, A RESPONSIBLE PUBLIC~~
29 ~~ENTITY MAY NOT EXERCISE ANY OF THE REMEDIES PROVIDED IN THIS SECTION OR~~
30 ~~IN § 2-712(B) AND (C) OF THIS SUBTITLE UNLESS A JUDGMENT BY DEFAULT HAS BEEN~~
31 ~~ENTERED BY A COURT OF COMPETENT JURISDICTION.~~

32 (B) ~~ON ENTRY BY THE COURT OF A JUDGMENT BY DEFAULT UNDER~~
33 ~~SUBSECTION (A) OF THIS SECTION, THE RESPONSIBLE PUBLIC ENTITY MAY:~~

34 (1) ~~TAKE OVER THE TRANSPORTATION FACILITY AND SUCCEED TO ALL~~
35 ~~OF THE RIGHT, TITLE, AND INTEREST IN THE TRANSPORTATION FACILITY, SUBJECT~~
36 ~~TO SUBSECTION (C) OF THIS SECTION AND ANY LIENS ON REVENUES PREVIOUSLY~~
37 ~~GRANTED BY THE OPERATOR TO ANY PERSON PROVIDING FINANCING;~~

1 (2) ~~IF THE RESPONSIBLE PUBLIC ENTITY HAS THE POWER OF~~
2 ~~CONDEMNATION, EXERCISE THE POWER OF CONDEMNATION TO ACQUIRE THE~~
3 ~~QUALIFYING TRANSPORTATION FACILITY, EXCEPT THAT A PERSON THAT HAS~~
4 ~~PROVIDED FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY, AND THE~~
5 ~~OPERATOR, TO THE EXTENT OF ITS CAPITAL INVESTMENT, MAY PARTICIPATE IN THE~~
6 ~~CONDEMNATION PROCEEDINGS WITH THE STANDING OF A PROPERTY OWNER;~~

7 (3) ~~TERMINATE THE COMPREHENSIVE AGREEMENT AND EXERCISE ANY~~
8 ~~OTHER RIGHTS AND REMEDIES THAT MAY BE AVAILABLE AT LAW OR IN EQUITY; AND~~

9 (4) ~~MAKE OR CAUSE TO BE MADE ANY APPROPRIATE CLAIMS UNDER~~
10 ~~THE PERFORMANCE OR PAYMENT BONDS REQUIRED BY § 2-708(B)(1) OF THIS~~
11 ~~SUBTITLE.~~

12 (C) (1) ~~IF THE RESPONSIBLE PUBLIC ENTITY ELECTS TO TAKE OVER A~~
13 ~~QUALIFYING TRANSPORTATION FACILITY UNDER SUBSECTION (B)(1) OF THIS~~
14 ~~SECTION, THE RESPONSIBLE PUBLIC ENTITY SHALL:~~

15 (I) ~~ACQUIRE, CONSTRUCT, IMPROVE, OPERATE, AND MAINTAIN~~
16 ~~THE TRANSPORTATION FACILITY;~~

17 (II) ~~IMPOSE USER FEES FOR THE USE OF THE TRANSPORTATION~~
18 ~~FACILITY; AND~~

19 (III) ~~COMPLY WITH ANY SERVICE CONTRACTS AS IF IT WERE THE~~
20 ~~OPERATOR.~~

21 (2) ~~ANY REVENUES THAT ARE SUBJECT TO A LIEN SHALL BE~~
22 ~~COLLECTED FOR THE BENEFIT OF, AND PAID TO, SECURED PARTIES, AS THEIR~~
23 ~~INTERESTS MAY APPEAR, TO THE EXTENT NECESSARY TO SATISFY THE OPERATOR'S~~
24 ~~OBLIGATIONS TO SECURED PARTIES, INCLUDING THE MAINTENANCE OF RESERVES,~~
25 ~~AND THE LIENS SHALL BE CORRESPONDINGLY REDUCED AND, WHEN PAID OFF,~~
26 ~~RELEASED.~~

27 (3) ~~BEFORE ANY PAYMENTS TO, OR FOR THE BENEFIT OF, SECURED~~
28 ~~PARTIES, THE RESPONSIBLE PUBLIC ENTITY MAY USE REVENUES TO PAY CURRENT~~
29 ~~OPERATION AND MAINTENANCE COSTS OF THE TRANSPORTATION FACILITY,~~
30 ~~INCLUDING COMPENSATION TO THE RESPONSIBLE PUBLIC ENTITY FOR ITS~~
31 ~~SERVICES IN OPERATING AND MAINTAINING THE QUALIFYING TRANSPORTATION~~
32 ~~FACILITY.~~

33 (4) (I) ~~REMAINING REVENUES, AFTER ALL PAYMENTS FOR~~
34 ~~OPERATION AND MAINTENANCE OF THE TRANSPORTATION FACILITY AND~~
35 ~~PAYMENTS TO OR FOR THE BENEFIT OF SECURED PARTIES HAVE BEEN MADE, SHALL~~
36 ~~BE PAID TO THE OPERATOR, SUBJECT TO THE NEGOTIATED MAXIMUM RATE OF~~
37 ~~RETURN.~~

38 (II) ~~THE RIGHT TO RECEIVE PAYMENT UNDER THIS PARAGRAPH~~
39 ~~SHALL BE CONSIDERED JUST COMPENSATION FOR THE QUALIFYING~~
40 ~~TRANSPORTATION FACILITY.~~

1 (5) ~~THE FULL FAITH AND CREDIT OF THE RESPONSIBLE PUBLIC ENTITY~~
2 ~~SHALL NOT BE PLEDGED TO SECURE ANY FINANCING OF THE OPERATOR BY THE~~
3 ~~ELECTION TO TAKE OVER THE QUALIFYING TRANSPORTATION FACILITY.~~

4 (6) ~~ASSUMPTION OF THE OPERATION OF THE QUALIFYING~~
5 ~~TRANSPORTATION FACILITY DOES NOT OBLIGATE THE RESPONSIBLE PUBLIC ENTITY~~
6 ~~TO PAY ANY OBLIGATION OF THE OPERATOR FROM SOURCES OTHER THAN~~
7 ~~REVENUES.~~

8 ~~2-712.~~

9 (A) (1) ~~AT THE REQUEST OF THE OPERATOR, THE RESPONSIBLE PUBLIC~~
10 ~~ENTITY MAY EXERCISE ANY POWER OF CONDEMNATION THAT IT HAS UNDER LAW~~
11 ~~FOR THE PURPOSE OF ACQUIRING ANY REAL PROPERTY OR ESTATES OR INTERESTS~~
12 ~~IN REAL PROPERTY TO THE EXTENT THAT THE RESPONSIBLE PUBLIC ENTITY FINDS~~
13 ~~THAT THE ACTION SERVES THE PUBLIC PURPOSE OF THIS SUBTITLE.~~

14 (2) ~~AN AMOUNT TO BE PAID IN A CONDEMNATION PROCEEDING UNDER~~
15 ~~THIS SECTION SHALL BE PAID BY THE OPERATOR.~~

16 (B) ~~EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, UNTIL THE~~
17 ~~COURT HAS ENTERED A FINAL ORDER OF DEFAULT UNDER § 2-711(A) OF THIS~~
18 ~~SUBTITLE, THE POWER OF CONDEMNATION MAY NOT BE EXERCISED AGAINST A~~
19 ~~QUALIFYING TRANSPORTATION FACILITY.~~

20 (C) ~~AFTER THE ENTRY OF A FINAL ORDER OF DEFAULT, ANY RESPONSIBLE~~
21 ~~PUBLIC ENTITY HAVING THE POWER OF CONDEMNATION UNDER LAW MAY~~
22 ~~EXERCISE THAT POWER AS PROVIDED IN § 2-711(B)(2) OF THIS SUBTITLE IN LIEU OF,~~
23 ~~OR AT ANY TIME AFTER TAKING OVER THE TRANSPORTATION FACILITY UNDER §~~
24 ~~2-711(B)(1) OF THIS SUBTITLE.~~

25 ~~2-713.~~

26 (A) ~~THE OPERATOR AND EACH PUBLIC SERVICE COMPANY, PUBLIC UTILITY,~~
27 ~~RAILROAD, OR CABLE TELEVISION PROVIDER, WHOSE FACILITIES ARE TO BE~~
28 ~~CROSSED OR AFFECTED BY A QUALIFYING TRANSPORTATION FACILITY SHALL~~
29 ~~COOPERATE FULLY WITH THE QUALIFYING TRANSPORTATION FACILITY IN~~
30 ~~PLANNING AND ARRANGING THE MANNER OF THE CROSSING OR RELOCATION OF~~
31 ~~THE FACILITIES.~~

32 (B) ~~AN ENTITY SPECIFIED IN SUBSECTION (A) OF THIS SECTION, POSSESSING~~
33 ~~THE POWER OF CONDEMNATION MAY EXERCISE THOSE POWERS IN CONNECTION~~
34 ~~WITH THE MOVING OR RELOCATION OF FACILITIES TO BE CROSSED BY THE~~
35 ~~QUALIFYING TRANSPORTATION FACILITY OR THAT MUST BE RELOCATED TO THE~~
36 ~~EXTENT THAT THE MOVING OR RELOCATION IS MADE NECESSARY OR DESIRABLE BY~~
37 ~~CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING TRANSPORTATION~~
38 ~~FACILITY, WHICH SHALL BE CONSTRUED TO INCLUDE CONSTRUCTION OF OR~~
39 ~~IMPROVEMENTS TO TEMPORARY FACILITIES FOR THE PURPOSE OF PROVIDING~~
40 ~~SERVICE DURING THE PERIOD OF CONSTRUCTION OR IMPROVEMENT.~~

1 (C) AN AMOUNT TO BE PAID FOR THE CROSSING, CONSTRUCTION, MOVING, OR
2 RELOCATING OF FACILITIES SHALL BE PAID FOR BY THE OPERATOR.

3 (D) (1) IF THE OPERATOR AND A PUBLIC SERVICE COMPANY, PUBLIC
4 UTILITY, RAILROAD, OR CABLE TELEVISION PROVIDER ARE NOT ABLE TO AGREE
5 WITH THE QUALIFYING TRANSPORTATION FACILITY ON A PLAN FOR THE CROSSING
6 OR RELOCATION, THE DEPARTMENT MAY DETERMINE THE MANNER IN WHICH THE
7 CROSSING OR RELOCATION IS TO BE ACCOMPLISHED AND ANY DAMAGES DUE
8 ARISING OUT OF THE CROSSING OR RELOCATION.

9 (2) THE DEPARTMENT MAY EMPLOY EXPERT ENGINEERS WHO SHALL
10 EXAMINE THE LOCATION AND PLANS FOR THE CROSSING OR RELOCATION, HEAR
11 ANY OBJECTIONS AND CONSIDER MODIFICATIONS, AND MAKE A RECOMMENDATION
12 TO THE DEPARTMENT.

13 (3) IF AN EXPERT IS EMPLOYED UNDER THIS SUBSECTION, THE COST OF
14 THE EXPERT IS TO BE BORNE BY THE OPERATOR.

15 2-714.

16 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, LAW
17 ENFORCEMENT OFFICERS OF THE STATE AND EACH AFFECTED LOCAL
18 JURISDICTION SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE
19 LIMITS OF A QUALIFYING TRANSPORTATION FACILITY AS THEY HAVE IN THEIR
20 RESPECTIVE AREAS OF JURISDICTION.

21 (2) LAW ENFORCEMENT OFFICERS SHALL HAVE ACCESS TO THE
22 QUALIFYING TRANSPORTATION FACILITY AT ANY TIME FOR THE PURPOSE OF
23 EXERCISING POWERS AND JURISDICTION UNDER THIS SUBSECTION.

24 (3) THE AUTHORITY GRANTED TO A LAW ENFORCEMENT OFFICER
25 UNDER THIS SUBSECTION DOES NOT EXTEND TO THE PRIVATE OFFICES, BUILDINGS,
26 GARAGES, AND OTHER IMPROVEMENTS OF THE OPERATOR TO ANY GREATER
27 DEGREE THAN THE POLICE POWER EXTENDS TO ANY OTHER PRIVATE BUILDINGS
28 AND IMPROVEMENTS.

29 (B) (1) TO THE EXTENT THE TRANSPORTATION FACILITY IS A ROAD, BRIDGE,
30 TUNNEL, OVERPASS, OR SIMILAR TRANSPORTATION FACILITY FOR MOTOR VEHICLES,
31 THE TRAFFIC AND MOTOR VEHICLE LAWS OF THE STATE OR LOCAL JURISDICTION
32 SHALL APPLY IN THE SAME MANNER THAT THEY APPLY TO CONDUCT ON SIMILAR
33 TRANSPORTATION FACILITIES IN THE STATE OR LOCAL JURISDICTION.

34 (2) PUNISHMENT FOR OFFENSES SHALL BE AS PRESCRIBED BY LAW FOR
35 CONDUCT OCCURRING ON SIMILAR TRANSPORTATION FACILITIES IN THE STATE OR
36 LOCAL JURISDICTION.

1 ~~2-715.~~

2 (A) ~~THE RESPONSIBLE PUBLIC ENTITY SHALL TERMINATE THE OPERATOR'S~~
3 ~~AUTHORITY AND DUTIES UNDER THIS SUBTITLE ON THE DATE SET FORTH IN THE~~
4 ~~COMPREHENSIVE AGREEMENT.~~

5 (B) ~~ON TERMINATION, THE AUTHORITY AND DUTIES OF THE OPERATOR~~
6 ~~UNDER THIS SUBTITLE SHALL CEASE, AND THE QUALIFYING TRANSPORTATION~~
7 ~~FACILITY SHALL BE DEDICATED TO THE RESPONSIBLE PUBLIC ENTITY OR, IF THE~~
8 ~~QUALIFYING TRANSPORTATION FACILITY WAS INITIALLY DEDICATED BY AN~~
9 ~~AFFECTED LOCAL JURISDICTION, TO THE AFFECTED LOCAL JURISDICTION, FOR~~
10 ~~PUBLIC USE.~~

11 ~~2-716.~~

12 (A) ~~NOTHING IN THIS SUBTITLE MAY BE CONSTRUED AS OR DEEMED TO BE A~~
13 ~~WAIVER OF THE SOVEREIGN IMMUNITY OF THE STATE, ANY RESPONSIBLE PUBLIC~~
14 ~~ENTITY, OR ANY AFFECTED LOCAL JURISDICTION, OR ANY OFFICER OR EMPLOYEE~~
15 ~~THEREOF WITH RESPECT TO THE PARTICIPATION IN, OR APPROVAL OF, ANY PART OF~~
16 ~~THE QUALIFYING TRANSPORTATION FACILITY OR ITS OPERATION, INCLUDING~~
17 ~~INTERCONNECTION OF THE QUALIFYING TRANSPORTATION FACILITY WITH ANY~~
18 ~~OTHER TRANSPORTATION FACILITY.~~

19 (B) ~~COUNTIES AND MUNICIPAL CORPORATIONS IN WHICH A QUALIFYING~~
20 ~~TRANSPORTATION FACILITY IS LOCATED SHALL POSSESS SOVEREIGN IMMUNITY~~
21 ~~WITH RESPECT TO THE CONSTRUCTION AND OPERATION OF THE QUALIFYING~~
22 ~~TRANSPORTATION FACILITY.~~

23 ~~2-717.~~

24 (A) ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, DIVISION II~~
25 ~~OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO A~~
26 ~~COMPREHENSIVE AGREEMENT DEVELOPED UNDER THIS SUBTITLE.~~

27 (B) (1) ~~A UNIT OF STATE GOVERNMENT, AS DEFINED IN § 11-101(X) OF THE~~
28 ~~STATE FINANCE AND PROCUREMENT ARTICLE, THAT IS A RESPONSIBLE PUBLIC~~
29 ~~ENTITY SHALL DEVELOP PROCEDURES FOR THE DEVELOPMENT AND~~
30 ~~IMPLEMENTATION OF COMPREHENSIVE AGREEMENTS THAT ARE CONSISTENT WITH~~
31 ~~§ 13-103 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

32 (2) ~~A UNIT OF STATE GOVERNMENT SHALL ENSURE THAT A~~
33 ~~COMPREHENSIVE AGREEMENT DEVELOPED UNDER THIS SUBTITLE IS CONSISTENT~~
34 ~~WITH THE PROCEDURES DEVELOPED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS~~
35 ~~SUBSECTION.~~

36 ~~2-718.~~

37 ~~THE DEPARTMENT SHALL HAVE EXCLUSIVE JURISDICTION TO ADJUDICATE~~
38 ~~ALL MATTERS SPECIFICALLY COMMITTED TO ITS JURISDICTION BY THIS SUBTITLE.~~

1 ~~2-719.~~

2 ~~THIS SUBTITLE MAY BE CITED AS THE PUBLIC-PRIVATE TRANSPORTATION ACT~~
3 ~~OF 2003.~~

4 (C) THERE IS A TRANSPORTATION PUBLIC-PRIVATE PARTNERSHIP PROGRAM
5 IN THE AUTHORITY.

6 (D) THE PURPOSE OF THE PROGRAM IS TO DEVELOP PARTNERSHIP
7 AGREEMENTS BETWEEN PRIVATE ENTITIES AND THE AUTHORITY OR THE
8 DEPARTMENT CONCERNING:

9 (1) ACQUISITION, CONSTRUCTION, OR IMPROVEMENT OF
10 TRANSPORTATION FACILITIES; AND

11 (2) MAINTENANCE AND SERVICES IN CONNECTION WITH NEW,
12 EXPANDED, OR PURCHASED TRANSPORTATION FACILITIES.

13 (E) A TRANSPORTATION FACILITY THAT IS THE SUBJECT OF A PARTNERSHIP
14 AGREEMENT UNDER THIS SECTION, INCLUDING ANY INTERCONNECTION WITH
15 EXISTING TRANSPORTATION FACILITIES AND OPERATIONS OF THE PROPOSED
16 TRANSPORTATION FACILITY, SHALL BE CONSISTENT WITH, AND EVENTUALLY
17 INCORPORATED INTO, THE DEPARTMENT'S CONSOLIDATED TRANSPORTATION
18 PROGRAM OR THE MARYLAND TRANSPORTATION PLAN, AS APPLICABLE.

19 (F) A PARTNERSHIP AGREEMENT ENTERED INTO UNDER THIS SECTION
20 SHALL:

21 (1) PROHIBIT A PRIVATE ENTITY FROM IMPOSING TOLLS OR USER FEES
22 ON AN EXISTING INTERSTATE HIGHWAY OR A FREE HIGHWAY, BRIDGE, TUNNEL, OR
23 OVERPASS UNLESS THE HIGHWAY, BRIDGE, TUNNEL, OR OVERPASS IS
24 RECONSTRUCTED TO PROVIDE FOR INCREASED CAPACITY;

25 (2) PROVIDE FOR PAYMENT OF THE PREVAILING WAGE RATE UNDER
26 TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

27 (3) COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS
28 AND REGULATIONS.

29 (G) (1) THE AUTHORITY SHALL ESTABLISH PROCEDURES FOR THE
30 SUBMITTAL, EVALUATION, AND APPROVAL OF SOLICITED AND UNSOLICITED
31 PROPOSALS TO ENTER INTO AGREEMENTS UNDER THIS SECTION.

32 (2) PROCEDURES ESTABLISHED UNDER THIS SUBSECTION SHALL
33 PROHIBIT THE SUBMITTAL OF AN UNSOLICITED PROPOSAL CONCERNING A
34 HIGHWAY FACILITY THAT IS NOT PART OF A PROPOSED PROJECT IN THE
35 CONSOLIDATED TRANSPORTATION PLAN.

36 (H) THE AUTHORITY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
37 SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2003.